



**Ninety-Seventh Legislature - First Session - 2001**  
**Committee Statement**  
**LB 31**

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**Hearing Date:** 1/30/2001  
**Committee On:** Urban Affairs

**Introducers:** (Redfield)  
**Title:** Change provisions relating to fees for handicapped parking permits

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**Roll Call Vote – Final Committee Action:**

Advanced to General File  
X Advanced to General File with Amendments  
Indefinitely Postponed

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**Vote Results:**

7	Yes	Senators Connealy, Erdman, Janssen, Hartnett, Preister, Quandahl & Redfield
	No	
	Present, not voting	
	Absent	

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**Proponents:**  
Senator Redfield

**Representing:**  
Introducer

**Opponents:**  
none

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

This legislation would repeal the statutory authority (Section 18-740(3)) for the collection of the three dollar fee for the issuance of handicapped and disabled parking permits.

In Sections 1 and 3 of the bill, Sec. 18-1739 and Sec. 18-1741 are amended to eliminate the reference to the issuance of handicapped parking permits only upon the payment of the permit fee (which is being repealed).

In Section 2, Sec. 18-1740 is amended to remove obsolete (outdated) references to the “life-span” of permits under prior versions of the law and the requirement for the payment of the \$3.00 fee is removed (subsection (3)).

The elimination of the parking fee is apparently mandated by federal law.

The federal Americans With Disabilities Act (42 USC § 12132), specifically provides that “...subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the

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services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”

US Department of Justice regulations regarding the act (28 C.F.R. § 35.130(f)) state: “a public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures...that are required to provide that individual or group with the non-discriminatory treatment required by the Act or this part.”

In combination, these provisions of federal law have been interpreted by federal courts in different areas of the country as rendering the fees charged by states for handicapped parking permits illegal. To this point, no court has upheld a state fee against such a challenge.

The State of Nebraska is currently the subject of litigation on this issue.

A petition challenging the validity of Nebraska’s handicapped parking permit fee was filed on February 19, 1999 in the District Court of Lancaster County (Doc. 577, Page 536), *Keef v. State of Nebraska, Nebraska Department of Motor Vehicles*, to establish the invalidity under the ADA of the Nebraska handicapped parking fee.

The District Court entered its Opinion and Order in the case on February 29<sup>th</sup>, 2000, enjoining the state from collecting or charging any fees for handicapped parking permits issued to permanently handicapped persons. The matter is currently on appeal to the State Supreme Court and awaiting oral arguments.

**Explanation of amendments, if any:**

Because of the questionable legal status of the fee and the fact that the State is currently enjoined from collecting it, the Committee amendments would add the emergency clause to the bill to resolve the matter in the most expeditious fashion.

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**Senator D. Paul Hartnett, Chairperson**